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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,443	08/30/2001	Jean-Christophe Audonnet	454313-2220.1	9956
20999 7590 06/08/2007 FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			EXAMINER CHEN, STACY BROWN	
			ART UNIT 1648	PAPER NUMBER
			MAIL DATE 06/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/943,443

Applicant(s)

AUDONNET ET AL.

Examiner

Stacy B. Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21,24,26,29 and 31 is/are rejected.
- 7) ☒ Claim(s) 22,23,25,27,28 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 10/232,278.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Applicant's amendment and response filed March 19, 2007 is acknowledged and entered.

Claims 21-31 are pending and under examination.

Claims Summary

2. Claims 21-26 and new claims 27-31 are drawn to a method for inducing in a feline host an immunological response against feline immunodeficiency virus comprising administering to a feline host at least one naked plasmid, wherein the plasmid contains nucleic acid molecules having sequences encoding feline immunodeficiency virus env protein, or gag protein, or pro protein, or gag and pro proteins, or env and gag and pro proteins. The plasmid further comprises a cytomegalovirus early promoter. The polynucleotide sequences are expressed *in vivo* in a feline host cell. The method further comprises administering a live whole vaccine against a feline pathogen, or an inactivated whole vaccine against a feline pathogen, or recombinant vaccine against a feline pathogen, or a subunit vaccine against a feline pathogen.

Response to Arguments

3. In view of Applicant's persuasive arguments, the rejection of claims 21-25 under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a method for inducing a humoral immune response in a feline when administering a naked plasmid construct comprising gp120, does not reasonably provide enablement for inducing a cellular immune response when administering a naked plasmid construct comprising gp120, is withdrawn.

Claims Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(*New Rejection*) Claims 21, 24, 26, 29 and 31 are rejected under 35 U.S.C. 102(b) as anticipated by Cuisinier *et al.* (*Vaccine*, 1997, 15(10):1085-1094, “Cuisinier”). The instantly claimed invention has priority to its parent application, 09/232,278, filed January 15, 1999.

Cuisinier discloses DNA vaccination using expression vectors carrying FIV structural genes that are studied for their ability to induce an immune response against FIV. Cuisinier vaccinated cats intramuscularly with naked DNA coding for FIV structural proteins envelope, gp120, and nucleocapsid (gag), p10 (page 1086, first column, first full paragraph). The construction of the plasmids pCMV-10 and pCMV-120 is described on page 1086, columns 1 and 2, bridging paragraph. Expression of envelope and nucleocapsid proteins was observed *in vivo* after transfection with the pCMV plasmid constructs directly under the control of the CMV promoter (page 1087, second column, “RESULTS” section). As for immune responses to the pCMV plasmid constructs, the pCMV-120 construct induced a humoral immune response, while the pCMV-p10 construct, interestingly, induced no humoral immune response (see Table 1, page 1090, and page 1091, column 2, first full paragraph). In view of Cuisinier’s teachings, the subject matter of claims 21 and 24 is anticipated.

Applicant argues that the instant application has priority to January 15, 1999. However, this cannot be determined without English translations of the priority documents

PCT/FR97/01315 and French application 96/09337. Applicant indicates that the verified English translations of the priority documents will be provided under separate cover.

The Office has considered Applicant's remarks. As of the date of this Office action, these documents have not been received in the Office. Therefore, the rejection is maintained pending the receipt and consideration of the English translations of the priority documents.

Conclusion

5. Claims 22, 23, 25, 27, 28 and 30 are objected to for depending from rejected claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stacy B. Chen whose telephone number is 571-272-0896. The examiner can normally be reached on M-F (7:00-4:30). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Stacy B. Chen/ 6-1-2007
Primary Examiner, TC1600